

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF DELAWARE AMERICAN )  
TOWERS, INC. D/B/A AMERICAN TOWERS, INC., )  
TRITEL COMMUNICATIONS, INC. AND TRITEL )  
FINANCE, INC. FOR ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY TO CONSTRUCT A PERSONAL )  
COMMUNICATION SERVICES FACILITY IN THE )  
LOUISVILLE MAJOR TRADING AREA )  
[COX'S CREEK] )

CASE NO.  
2001-131-UAC

O R D E R

On June 28, 2001, Delaware American Towers, Inc. d/b/a American Towers, Inc, Tritel Communications, Inc. and Tritel Finance, Inc. ("Applicants") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility is to be located at 115 Samuels Road, Cox's Creek, Nelson County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 53' 53.23" by West Longitude 86° 28' 37.06".

The Applicants have provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Licensed Professional Engineer has certified the plans.

Pursuant to 807 KAR 5:063, the Applicants have notified the local planning unit of the proposed construction. The planning commission is duly authorized to review the

uniform application but has failed to respond with any decision within 60 days. To date, the local planning unit has filed no comments and, pursuant to KRS 100.987(4)(c), the application is presumed approved. The Applicants have filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed facility. Both decisions are pending.

The Applicants have filed evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited any comments and informed the recipients of their right to request intervention. The Commission did receive a letter of concern to the placement of the tower from Mr. and Mrs. Joe Clark. The Commission informed Mr. and Mrs. Clark of their right to intervene, but no further correspondence was received relating to their opposition.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, the Applicants should notify the Commission if they do not use this antenna tower to provide service in the manner set out in their application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by the Applicants.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicants have demonstrated that a facility is necessary

to provide adequate utility service and therefore should be granted a Certificate of Public Convenience and Necessity to construct the proposed facility.

IT IS THEREFORE ORDERED that:

1. The Applicants are granted a Certificate of Public Convenience and Necessity to construct a wireless telecommunications facility. The proposed facility is to be located at 115 Samuels Road, Cox's Creek, Nelson County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 53' 53.23" by West Longitude 86° 28' 37.06".

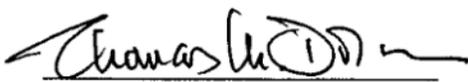
2. The Applicants shall file a copy of the final decisions regarding their pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

3. The Applicants shall immediately notify the Commission in writing if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 3<sup>rd</sup> day of October, 2001.

By the Commission

ATTEST:

  
Executive Director